

John M. Sorich - Bar No.125223
ALVARADO & ASSOCIATES, LLP
1 Mac Arthur Place, Suite 210
Santa Ana, CA 92707
(714) 327-4400, fax (714) 327-4499
219-51680-2

Attorneys for Movant, GREEN TREE SERVICING, LLC AS LOAN SERVICER AND
ATTORNEY-IN-FACT FOR BANK OF AMERICA, N.A.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

In re

RENEE MARIE JORDAN,

Debtor.

GREEN TREE SERVICING, LLC AS LOAN
SERVICER AND ATTORNEY-IN-FACT
FOR BANK OF AMERICA, N.A., its
assignees and/or successors in interest,

Movant,

vs.

RENEE MARIE JORDAN, Debtor; and
SHERI L CARELLO, Chapter 7 Trustee,

Respondents.

Case No. 11-40148

Docket Control No.: JMS-1

(Chapter 7)

**MOTION FOR RELIEF FROM THE
AUTOMATIC STAY**

[Pursuant to Local Rule 9014-1(f)(1)]

Date: November 10, 2011

Time: 9:30 a.m.

Place: Ctrm 33, Dept E
501 I Street
Sacramento. California

**TO THE HONORABLE RONALD H SARGIS, THE DEBTOR, CHAPTER 7
TRUSTEE AND ALL OTHER INTERESTED PARTIES:**

GREEN TREE SERVICING, LLC AS LOAN SERVICER AND ATTORNEY-IN-
FACT FOR BANK OF AMERICA, N.A., its assignees and/or successors in interest ("Movant") by
Limited Power of Attorney and servicing agreement dated March 15, 2010 provides authorization
to Green Tree Servicing, LLC, including but not limited to, deliver bankruptcy declarations for the

1 purpose of filing motions to lift stays and other documents or notice filings on behalf of the owner
2 in connection with bankruptcy actions (A true and correct copy of the recorded Limited Power of
3 Attorney is attached as Exhibit "1" to the Declaration of BRENDA DERSCHAN) submits the
4 following motion in support of its request for relief of the automatic stay:

5 The Bankruptcy Court has jurisdiction over this proceeding pursuant to 11 U.S.C.
6 Section 362 and 28 U.S.C. Section 157 and it is a core proceeding within the definition of 28 U.S.C.
7 Section 157(b).

8 On August 18, 2011, RENEE MARIE JORDAN (hereinafter referred to as "Debtor")
9 filed a Petition under Chapter 13 of the Bankruptcy Code in the United States Bankruptcy Court,
10 Eastern District of California, Case No. 11-40148. The case was converted to a Chapter 7 on
11 September 1, 2011.

12 SHERI L CARELLO was appointed Trustee, has duly qualified, and is now acting in
13 that capacity.

14 On or about April 23, 2007, BANK OF AMERICA, N.A., made a loan in the amount
15 of \$671,550.00 ("Loan") to Debtor. In exchange for the Loan, Debtor executed and delivered a
16 note in the original principal amount of \$671,550.00 ("Note") to BANK OF AMERICA, N.A.. As
17 additional consideration, and as security for repayment of the Loan, Debtor made, executed, and
18 delivered to BANK OF AMERICA, N.A., as beneficiary, a Deed of Trust ("Deed") dated April 23,
19 2007. True and correct copies of the Note and the Deed are attached hereto as Exhibits "2" and "3"
20 and are incorporated herein by reference to the Declaration of BRENDA DERSCHAN filed
21 concurrently herewith and incorporated herein by reference.

22 The Deed encumbers the property commonly known as 1428 O HARE DR, Benicia,
23 CA 94510 ("Property").

24 Both the Note and the Deed require monthly payments of principal and interest to be
25 made by Debtor.

26 The Debtor is delinquent in making the payments required under the Note and the
27 Deed. Payments are due from November 1, 2010 in the total amount of \$41,763.57. Further,
28 Movant anticipates that the November 1, 2011 payment will be due by the Hearing.

1 As of October 4, 2011, the total indebtedness secured by the aforementioned Note
2 and Deed consists of an unpaid principal balance of \$669,719.50. Interest of \$50,246.89 is due,
3 plus interest thereon at the rate of 6.3800% per annum, less unapplied funds in the amount of
4 \$2,488.62, plus attorneys' fees and costs. The total amount due and owing to Movant is
5 \$717,477.77. See Declaration of BRENDA DERSCHAN.

6 The total amount of liens and encumbrances known to Movant amount to
7 \$717,477.77.

8 Movant has not recorded a Notice of Default on the subject property.

9 Debtor has breached her obligation to Movant by failing to tender regular monthly
10 payments pursuant to the terms and provisions of the subject Note and Deed.

11 Movant requests that the Court take judicial notice of the costs of sale of real
12 property through escrow amount to eight percent (8.00%) of the purchase price. Eight percent
13 (8.00%) of \$375,000.00 is \$30,000.00. When the costs of sale are added, the total liens and
14 encumbrances against the property equal \$747,477.77, thereby leaving minimal equity for the
15 benefit of the unsecured creditors of the estate.

16 Debtor's Schedules "A" and "D" indicate that the fair market value for the subject
17 property is \$375,000.00. See Request for Judicial Notice filed concurrently herewith.

18 Movant desires to enforce its rights under the Note and the Deed by, among other
19 things, pursuing foreclosure proceedings. Accordingly, Movant hereby requests that the automatic
20 stay against enforcement by Movant of its rights under the Note and the Deed be terminated and
21 that Movant be permitted to proceed in enforcing its rights, including but not limited to, foreclosing
22 under the Note and the Deed as permitted by state law.

23 **WHEREFORE**, Movant prays as follows:

24 1. The automatic stay of 11 U.S.C. §362 be terminated for cause, including lack of
25 adequate protection, so that Movant may exercise any and all rights under its Note and Deed and
26 any and all rights after the foreclosure sale, including but not limited to, the right to consummate
27 foreclosure proceedings and the right to proceed in an unlawful detainer action to obtain possession
28 of the subject property;

2. All restraining orders and stay orders issued shall be dissolved forthwith;
3. That the provisions of Federal Rules of Bankruptcy Procedure Rule 4001(a)(3) not apply; and
4. For such other and further relief as this Court deems proper.

Dated: October 10, 2011

ALVARADO & ASSOCIATES, LLP

By /s/ John M. Sorich
John M. Sorich, Attorneys for Movant, GREEN TREE
SERVICING, LLC AS LOAN SERVICER AND
ATTORNEY-IN-FACT FOR BANK OF AMERICA,
N.A.